

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

OL' VIRGINIA PACKING, INC./
PACKERS BAR M MEAT COMPANY, A
DIVISION OF OL' VIRGINIA PACKING, INC.;
COLONY MEAT PACKERS, INC.;
RUSS WILLIAM BROWN

and

Case 31-CA-17919

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL 501, AFL-CIO

August 12, 1991

SUPPLEMENTAL DECISION AND ORDER

By Members Donovan, Oratt, and Raudabaugh

On August 23, 1990, the National Labor Relations Board issued a Decision

and Order,¹ inter alia, ordering Respondents Ol' Virginia Packing, Inc./Packers Bar M Meat Company, A Division of Ol' Virginia Packing, Inc. to make payments to, or on behalf of, its unit employees for backpay, pension contributions, final wages, accrued sick leave pay, vacation pay, and holiday pay as required by the collective-bargaining agreement, and to reimburse its employees for any expenses ensuing from its failure to make the contractually required payments.

A controversy having arisen over the amount of backpay due the discriminatees and pension contributions owing, on March 15, 1991, the Acting Regional Director for Region 31 issued a compliance specification and notice

¹ 299 NLRB No. 75. Member Raudabaugh did not participate in the underlying decision.

of hearing alleging the amount due under the Board's Order,² and notifying the Respondents that they should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondents have failed to file an answer.

By letter dated April 24, 1991, counsel for the General Counsel advised the Respondents that no answer to the compliance specification had been received and that unless an appropriate answer was filed by May 2, 1991, summary judgment would be sought. The Respondents filed no answer.

On June 18, 1991, the General Counsel filed with the Board a Motion to Transfer the Case to and Continue Back Pay Proceedings Before the Board and for Summary Judgment, with exhibits attached. On June 20, 1991, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondents again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondents shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or

² The compliance specification also alleges that Respondent Ol' Virginia and Respondents Colony Meat Packer's, Inc. and Russ William Brown are alter egos and a single employer under the Act and that they are jointly and severally liable for the purpose of achieving compliance with the Board's Order.

without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondents, despite having been advised of the filing requirements, have failed to file an answer to the compliance specification. In the absence of good cause for the Respondents' failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net backpay due the discriminatees and the amount of pension contributions due is as stated in the compliance specification and we will order payment by the Respondents to the discriminatees and the pension fund.

ORDER

The National Labor Relations Board orders that the Respondents, Ol' Virginia Packing, Inc./ Packers Bar M Meat Company, A Division of Ol' Virginia Packing, Inc.; Colony Meat Packer's, Inc.; Russ William Brown, Los Angeles, California, their officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, with interest to be computed in the manner prescribed in New Horizons for the Retarded, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and state laws, and shall pay the amount of pension contributions shown in accordance with Merryweather Optical Co., 240 NLRB 1213, 1216 fn. 7 (1979):

Fred Sallee	\$ 7,587.15
Antonio Macedo	5,430.29
Johnny Sanchez	13,720.74
Richard A. Payne	7,403.44
William F. Spain	3,731.79
Masedonio Ramirez	1,131.20
Richard Betts	1,071.20

Central Pension Fund
of the International

Union of Operating
Engineers \$4,558.75

Dated, Washington, D.C. August 12, 1991

Dennis M. Devaney, Member

Clifford R. Oviatt, Jr., Member

John N. Raudabaugh, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD